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ATTORNEY DOCKET NO. 056100-5022-08-US

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**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re Application of: Chris SOMERVILLE et al.

Application No.: 09/885,189

Group Art Unit: 1638

Filed: June 21, 2001

Examiner: E. McElwain

For: PRODUCTION OF HYDROXYLATED FATTY ACIDS IN  
GENETICALLY MODIFIED PLANTS

**MAIL STOP**

Commissioner for Patents  
Arlington, VA 22202

Sir:

**AMENDMENT TRANSMITTAL FORM**

1. Transmitted herewith is an Amendment and Response to the Office Action dated July 25, 2003, the period for response to which extends through January 25, 2003 with a petition for a three-month extension of time. This Amendment and Response are timely filed on January 26, 2004, due to the next business day rule and the fact that the actual due date of January 25, 2004, was a Sunday.
2. Additional papers enclosed:

- ☐ Drawings: ☐ Formal ☐ Informal (Correction)
- ☐ Information Disclosure Statement
- ☐ Form PTO-1449, \_\_\_\_\_ references included
- ☐ Citations
- ☐ Declaration of Biological Deposit
- ☐ Submission of "Sequence Listing", computer readable copy and/or amendment pertaining thereto for biotechnology invention containing nucleotide and/or amino acid sequence.

3. Extension of Time

The proceedings herein are for a patent application and the provisions of 37 C.F.R. § 1.136(a) apply.

- ☐ Applicant believes that no extension of time is required. However, this conditional petition is being made to provide for the possibility that applicant has inadvertently overlooked the need for a petition and fee for extension of time.
- ☒ Applicant petitions for an extension of time, the fees for which are set out in 37 C.F.R. § 1.17(a), for the total number of months checked below:

<u>Total Months Requested</u>	<u>Fee for Extension</u>	<u>[Fee for Small Entity]</u>
<input type="checkbox"/> one month	\$ 110.00	\$ 55.00
<input type="checkbox"/> two months	\$ 420.00	\$ 210.00
<input checked="" type="checkbox"/> three months	\$ <b>950.00</b>	\$ 475.00
<input type="checkbox"/> four months	\$ 1,480.00	\$ 740.00

Extension of time fee due with this request: \$950.00

If an additional extension of time is required, please consider this a Petition therefor.

- ☐ An extension for \_\_\_\_\_ months has already been secured and the fee paid therefor of \$\_\_\_\_\_ is deducted from the total fee due for the total months of extension now requested.

4. Constructive Petition

- ☒ EXCEPT for issue fees payable under 37 C.F.R. § 1.18, the Commissioner is hereby authorized by this paper to charge any additional fees during the entire pendency of this application including fees due under 37 C.F.R. §§ 1.16 and 1.17 which may be required, including any required extension of time fees, or credit any overpayment to Deposit Account 50-0310. This paragraph is intended to be a CONSTRUCTIVE PETITION FOR EXTENSION OF TIME in accordance with 37 C.F.R. § 1.136(a)(3).

5. Fee Calculation (37 C.F.R. §1.16)

CLAIMS AS AMENDED						
	Claims Remaining After Amendment		Highest No. Previously Paid	Present Extra	at Rate of	Total Fees
Total Claims (37 C.F.R. §1.16(c))	5	minus	41	0	x \$18 each=	+ \$0
Independent Claims (37 C.F.R. §1.16(b))	3	minus	8	0	x \$86 each=	+ \$0
[ ] First presentation of Multiple dependent claim(s)					\$290.00	+ \$0
SUB-TOTAL =						\$0
Reduction by ½ for filing by a small entity						- \$0
TOTAL FEE =						\$ 0

6. Fee Payment

- ☒ The Commissioner is hereby authorized to charge the amount of \$950.00 for 3 month EOT to Deposit Account No. 50-0310.
- ☒ The Commissioner is hereby authorized to charge any additional fees which may be required, including fees due under 37 C.F.R. §§ 1.16 and 1.17, or credit any overpayment to Deposit Account 50-0310.

Respectfully submitted,

**MORGAN, LEWIS & BOCKIUS LLP**

Dated: January 26, 2004

By: Erich E. Veitenheimer  
Erich E. Veitenheimer  
Reg. No. 40,420

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) Examiner: E. McElwain  
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Commissioner for Patents  
U.S. Patent and Trademark Office  
2011 South Clark Place  
Customer Window  
Crystal Plaza Two, Lobby, Room 1B03  
Arlington, VA 22202

**AMENDMENT AND RESPONSE UNDER 37 C.F.R. 1.111**

This Amendment and Response is filed in reply to the Office Action (Paper No. 15) mailed July 25, 2003, the period for response to which extends through January 25, 2003 with a petition for a three-month extension of time. This Amendment and Response are timely filed on January 26, 2004, due to the next business day rule and the fact that the actual due date of January 25, 2004, was a Sunday.

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